



Cal/EPA

California
Environmental
Protection
Agency



Department of
Pesticide
Regulation

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August 19, 1996

WHS 96-9



Pete Wilson
Governor

James M. Strock
Secretary for
Environmental
Protection

James W. Wells
Director

TO: COUNTY AGRICULTURAL COMMISSIONERS

SUBJECT: PROPOSED REGULATION CHANGE TO DELETE 2,4-D
PGR PRODUCTS FROM THE RESTRICTED MATERIALS
LIST

The Department of Pesticide Regulation has noticed for public comment the attached action to delete plant growth regulator products that contain 2,4-D from the restricted materials list. The inclusion of these citrus stop drop products on the restricted materials list was an inadvertent outcome of the recent reorganization of the list.

Prior to the reorganization, 2,4-D was restricted only when intended for use as a herbicide. This was due to its inclusion under subsection (m) (Certain Herbicides). Since the reorganization eliminated the specific sublists, 2,4-D is now listed as a restricted active ingredient for all uses. This action would reinstate the previous situation.

If you have any questions about this proposed action, please contact Roy Rutz, Program Supervisor, at (916) 445-4279, or the Senior Pesticide Use Specialist serving your county.

Sincerely,

John M. Donahue, Chief
Worker Health and Safety Branch
(916) 445-4222

Attachments

cc: Mr. Daniel Merkley



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NOTICE OF PROPOSED CHANGES IN THE REGULATIONS
OF THE DEPARTMENT OF PESTICIDE REGULATION
PERTAINING TO

CERTAIN FORMS OF 2,4-D USED AS A PLANT GROWTH REGULATOR

TITLES 3 AND 26. CALIFORNIA CODE OF REGULATIONS

NOTICE IS HEREBY GIVEN:

The Department of Pesticide Regulation (DPR) proposes to amend section 6400 of the regulations in Titles 3 and 26 of the California Code of Regulations. The proposed regulation change would remove products containing 2,4-dichlorophenoxyacetic acid (2,4-D) that are labeled only for plant growth regulator uses, from the restricted materials list.

A public hearing is not scheduled. However, a public hearing will be scheduled if any interested person submits a request for a public hearing to DPR no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the close of the written comment period, if no public hearing is requested, DPR may adopt the proposal substantially as set forth without further notice.

Notice is also given that any interested person may present statements or arguments in writing, relevant to the proposed action, to the agency officer named below no later than 5:00 p.m. on October 18, 1996.

INFORMATIVE DIGEST/PLAIN ENGLISH SUMMARY:

Current regulations list various chemicals, including 2,4-D as designated restricted materials and includes certain exemptions for some. There are exemptions for 2,4-D based on form, concentration, and container size.

This action would add an exemption for pesticide products containing 2,4-D that are used only for plant growth regulator purposes. This regulation is written in plain English, pursuant to sections 11340 (f) and 11343.2 (b) of the Government Code.

IMPACT ON PRIVATE PERSONS AND BUSINESS:

The adoption of this regulatory change will not have an adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states, and should have no impact on private persons. This action is not expected to result in the creation or elimination of any jobs or

businesses in the State; nor is this action likely to result in the expansion or reduction in size of any business in the State.

ALTERNATIVES TO REDUCE IMPACT ON SMALL BUSINESSES:

DPR has not considered any alternatives that would lessen any possible adverse economic impact on small businesses, and invites you to submit any such proposals. Proposals may include the following considerations: the establishment of differing compliance or reporting requirements or timetables that consider the resources of small businesses; consolidation or simplification of compliance and reporting requirements for small businesses; the use of performance standards rather than prescriptive standards; and exemption or partial exemption of small businesses from the regulatory requirements.

COSTS TO LOCAL AGENCIES AND SCHOOL DISTRICTS:

DPR has determined that this proposed action does not impose a mandate on local agencies or school districts. DPR has also determined that no savings or increased costs to any State agency, no reimbursable costs [under part 7 (commencing with section 17500) of Division 4 of the Government Code], to local agencies or schools districts, no nondiscretionary costs or savings to local agencies or school districts, and no effect on federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS:

DPR finds that the adoption of this regulatory action will not have an impact on housing costs.

PLAIN ENGLISH STATEMENT:

This regulation is written in plain English pursuant to sections 11340 (f) and 11343.2 (b) of the Government Code.

ALTERNATIVES:

DPR must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. DPR has not considered any alternatives that would lessen any possible adverse impact on affected businesses or private persons, and invites you to submit any such proposals.

AUTHORITY:

This action is taken pursuant to authority vested by sections 14004.5, and 14005 of the Food and Agricultural Code.

REFERENCE:

This action is to implement, interpret, or make specific sections 14004.5 and 14005 of the Food and Agricultural Code.

CONTACT:

Written comments or questions relevant to the action proposed and inquiries about the Initial Statement of Reasons, location of the rulemaking file, and requests for a public hearing may be directed to Roy Rutz, Program Supervisor, Worker Health and Safety Branch, Department of Pesticide Regulation, 1020 N Street, Sacramento, CA 95814, or by phoning (916) 445-4279.

AVAILABILITY OF REGULATION TEXT AND STATEMENT OF REASONS:

DPR has prepared an Initial Statement of Reasons for the proposed action and has available the express terms of the proposed action, written in plain English, as well as the rulemaking file. A copy of the Statement of Reasons and the proposed regulations may be obtained from the agency contact named above. The information upon which DPR relied and the rulemaking file are available for review at the Sacramento address.

After the close of the comment period, DPR may adopt the regulation if it remains substantially the same as described in the Informative Digest. If DPR does make changes to the regulation, the modified text will be made available for at least 15 days prior to the adoption during which DPR will accept written comments on the changes. Requests for the modified text should be made to the agency contact named above.

Approved: James W. Wells
James W. Wells, Director

Date: 8/1/96

TITLES 3 AND 26, CALIFORNIA CODE OF REGULATIONS
CHAPTER 6. PESTICIDES AND PEST CONTROL OPERATIONS
SECTION 6400. RESTRICTED MATERIALS

Amend in section 6400(e) the entry for
2,4-dichlorophenoxyacetic acid as follows:

6400. Restricted Materials.

(e) Certain other pesticides:

2,4-dichlorophenoxyacetic acid (2,4-D), except:

(1) liquid formulations, packaged in containers of 1
quart or less, regardless of percentage of 2,4-D;

(2) liquid formulations that contain 15% or less 2,4-D
packaged in containers of 1 gallon or less;

(3) liquid formulations of a product that is labeled to
be used without further dilution;

(4) dry formulations, packaged in containers of 1 pound
or less, regardless of percentage of 2,4-D; ~~and~~

(5) dry formulations, packaged in containers of 50
pounds or less, of a product that contains 10% or less 2,4-D
and is labeled to be used without further dilution; and

(6) products labeled only for use as a plant growth
regulator.

NOTE: Authority Cited: Sections 14004.5 and 14005, Food and
Agricultural Code. Reference: Sections 14004.5 and 140054,
Food and agricultural Code.

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INITIAL STATEMENT OF REASONS FOR CHANGES IN THE REGULATIONS
OF THE DEPARTMENT OF PESTICIDE REGULATION
PERTAINING TO

CERTAIN FORMS OF 2,4-D USED AS A PLANT GROWTH REGULATOR

TITLES 3 AND 26. CALIFORNIA CODE OF REGULATIONS

Problem, Condition, or Circumstance Addressed:

One of the pesticide control measures which originated in California and was later adopted, in principle, at the federal level is the concept of restricted materials. Restricted materials may be used only by or under the direct supervision of a certified applicator. In California, a permit from the county agricultural commissioner is also required. For many pesticides, there are exemptions from restriction for certain forms, concentrations, or products labeled only for specific uses. The exemptions cover situations where the particular concerns that triggered restricted status do not apply.

When 2,4-dichlorophenoxyacetic acid (2,4-D) is used as an herbicide, there are concerns about movement off-target and subsequent damage to nearby susceptible crops. When certain forms of 2,4-D are used as a plant growth regulator to control fruit drop in citrus, these concerns are greatly reduced due to the extremely low levels used. In a citrus packing house, the use to prevent calyx loss from fruit is also unlikely to result in concern for nearby crops. However, at the present time, there is no exemption from restriction for 2,4-D products used only as a plant growth regulator. This creates an unnecessary burden on dealers and users of these products.

Purpose:

The purpose of this action is to remove 2,4,D products labeled only for plant growth regulator uses from the restricted materials list.

Rationale for Necessity of the Action:

These regulation changes are necessary to remove an unreasonable burden from the regulated community. About a year ago, the Department of Pesticide Regulation proposed, and subsequently finalized, an action to reorganize the restricted materials list. The current situation is an unintended result of that action. Previously, 2,4-D was listed under a subheading of "herbicides." This was interpreted as limiting the restriction to the herbicide uses of this chemical. When the list was reorganized and all chemicals placed in one alphabetical list, this distinction was lost. To correct this situation, it is necessary to add an exemption for these uses.

Alternatives:

The Department has not identified any feasible alternatives that would lessen the impact on small businesses. This action is not expected to have an adverse impact on businesses.

Data Relied Upon:

1. Letter from Paul Engler, President, California Citrus Quality Council, to Charles M. Andrews, Chief, Pesticide Enforcement Branch, dated January 23, 1996.